

August 10, 2001

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND DECISION ON PRELIMINARY PLAT APPLICATION

SUBJECT: Department of Development and Environmental Services File No. **L00P0015**

FAIRHAVEN DIVISION III
Preliminary Plat Application

Location: West of 148th Avenue Southeast, between Southeast 188th and Southeast 190th Streets

Applicant: **John Andrew**
Keepsake Development, Inc.
P.O. Box 59386
Renton, WA 98058
Telephone: (425) 430-9626

King County: Department of Development and Environmental Services,
Land Use Services Division, *represented by*
Fereshteh Dehkordi
900 Oakesdale Avenue SW
Renton, WA 98055-1219
Telephone: (206) 296-7173
Facsimile: (206) 296-7055

SUMMARY OF DECISION:

| | |
|--|---|
| Department's Preliminary Recommendation: | APPROVE, subject to conditions |
| Department's Final Recommendation: | APPROVE, subject to conditions (modified) |
| Examiner's Decision: | APPROVE, subject to conditions (modified) |
| Complete application: | August 10, 2000 |

EXAMINER PROCEEDINGS:

| | |
|-----------------|----------------|
| Hearing Opened: | August 9, 2001 |
| Hearing Closed: | August 9, 2001 |

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

ISSUES/TOPICS ADDRESSED:

- Wetlands
- Wildlife

SUMMARY:

The preliminary plat application is APPROVED, subject to conditions.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

| | |
|----------------------|---|
| Owner/Developer: | Keepsake Development John Andrew 425 430-9626 P.O. Box 59386 Renton, WA 98058 |
| Engineer: | Baurghausen Consulting Engineers, Inc. Eric LaBrie 425-251-6222 18215 72 nd Avenue South Kent, WA 98032 |
| STR: | SE1/4 34-23-5 |
| Location: | The site lies west of 148 th Avenue Southeast, between SE 186 th and SE 188 th Street. |
| Zoning: | Residential 6 du/Acre (R-6) with Special Overlay |
| Acreage: | 4.9 |
| Number of Lots: | 20 |
| Density: | 4.5 du/acre |
| Lot Size: | typical lot size ranges from 5500 sq.ft. to 8000 sq.ft. |
| Proposed Use: | Residential |
| Sewage Disposal: | Soos Creek Water and Sewer District |
| Water Supply: | Soos Creek Water and Sewer District |
| Fire District: | King County Fire District 40 |
| School District: | Kent School District 415 |
| Complete Application | |

Date:

August 10, 2000

2. Except as modified herein, the facts set forth in the King County Land Use Services Division's preliminary report to the King County Hearing Examiner for the August 9, 2001, public hearing are found to be correct and are incorporated herein by reference. The LUSD staff recommends approval of the application, subject to conditions.
3. Keepsake Development has filed a preliminary plat application to subdivide 4.9 acres into 20 lots for single family residential development. The property is located in the Fairwood neighborhood west of 148th Avenue Southeast and is a part of the original plat of Fairhaven approved in 1992.
4. The Fairhaven development parcels surround Lower Cedar River Wetland no. 23, a large class 1 wetland that comprises approximately 8 acres and is subject to a 100 foot buffer requirement. The Division III property is located southeast of Wetland no. 23 and is dominated by mixed growth forest. A class 3 stream lying along the northern plat boundary connects Wetland no. 23 east to the Lake Youngs Preserve and provides an important wildlife corridor. In order to protect this amenity the SEPA conditions imposed on this proposal require both fencing and additional tree plantings along the plat's northern perimeter.

CONCLUSIONS:

1. If approved subject to the conditions imposed below, the proposed subdivision makes appropriate provision for the public health, safety and welfare; serves the public use and interest; and meets the requirements of RCW 58.17.110.
2. The conditions of approval imposed herein, including dedications and easements, will provide improvements that promote legitimate public purposes, are necessary to serve the subdivision and are proportional to its impacts; are required to make the proposed plat reasonably compatible with the environment; and will carry out applicable state laws and regulations and the laws, policies and objectives of King County.

DECISION:

The preliminary plat application for Fairhaven Division III, as revised and received on May 3, 2001, is APPROVED, subject to the following conditions of final approval:

CONDITIONS:

1. Compliance with all platting provisions of Title 19 of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication that includes the language set forth in King County Council Motion No. 5952.

3. The plat shall comply with the base density (and minimum density) requirements of the R-6 zone classification. All lots shall meet the minimum dimensional requirements of the R-6 zone classification or shall be as shown on the face of the approved preliminary plat, whichever is larger, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services. The plat shall comply with applicable zoning development conditions for a significant tree retention and seasonal clearing.
4. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended (1993 KCRS).
5. The applicant must obtain the approval of the King County Fire Protection Engineer certifying the adequacy of the fire hydrant, water main, and fire flow to meet the standards of Chapter 17.08 of the King County Code.
6. The stormwater retention/detention facility for this subdivision shall meet the Level 2 Flow Control requirements as outlined in the 1998 King County Surface Water Design Manual (KCSWDM). The preliminary proposal is to route the onsite drainage to an existing offsite detention facility in Fairhaven Division 2(L99P3007). Documentation shall be provided at engineering plan submittal showing that the Division 2 facility is sized to include Division 3. Documentation shall also be provided to show adequate capacity in the conveyance pipe routing flows to the Fairhaven Division 2 facility. All other applicable requirements in KCC 9.04 and the Surface Water Design Manual (SWDM) must also be satisfied during engineering and final review.
 - a. Drainage plans and analysis shall comply with the 1998 King County Surface Water Design Manual and applicable updates adopted by King County. DDES approval of the drainage and roadway plans is required prior to any construction.
 - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.
 - c. The following note shall be shown on the final recorded plat:

All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # _____ on file with DDES and/or the King County Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with plans on file."

7. The proposed subdivision shall comply with the 1993 King County Road Standards (KCRS), including the following requirements:
 - a. The internal access road SE 188th Way shall be improved to the urban subaccess street standard.
 - b. FRONTAGE: The frontage of the site along 148th Avenue, SE (west side) shall be improved to the urban neighborhood collector standard.
 - c. Modifications to the above road conditions can be considered according to the variance provisions in Section 1.08 of the KCRS.
8. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
9. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
10. Lots within this subdivision are subject to King County Code 21A.43, which imposes impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.
11. There shall be no direct vehicular access to or from 148th Avenue SE from those lots which abut it. A note to this effect shall appear on the engineering plans and final plat.
12. The proposed subdivision shall comply with the Sensitive Areas Code as outlined in KCC 21A.24. Permanent survey marking, and signs as specified in KCC 21A.24.160 shall also be addressed prior to final plat approval. Temporary marking of sensitive areas and their buffers (e.g., with bright orange construction fencing) shall be placed on the site and shall remain in place until all construction activities are completed.

Preliminary plat review has identified the following specific requirements which apply to this project. All other applicable requirements from KCC 21A.24 shall also be addressed by the applicant.

- a. Class I wetland(s) shall have a minimum buffer of 100 feet, measured from the wetland edge.

- b. Class 2 wetland(s) shall have a minimum buffer of 50 feet, measured from the wetland edge.
- c. Class 3 wetland(s) shall have a minimum buffer of 25 feet, measured from the wetland edge.
- d. The wetland(s) and their respective buffers shall be placed in a Sensitive Area Tract (SAT).
- e. Buffer averaging may be proposed, pursuant to KCC 21A.24.320, provided the total amount of the buffer area is not reduced and better resource protection is achieved, subject to review and approval by a DDES Senior Ecologist.
- f. A minimum building setback line of 15 feet shall be required from the edge of the tract.
- g. The following note shall be shown on the final engineering plan and recorded plat:

**RESTRICTIONS FOR SENSITIVE AREA TRACTS AND SENSITIVE
AREAS AND BUFFERS**

Dedication of a sensitive area tract/sensitive area and buffer conveys to the public a beneficial interest in the land within the tract/sensitive area and buffer. This interest includes the preservation of native vegetation for all purposes that benefit the public health, safety and welfare, including control of surface water and erosion, maintenance of slope stability, and protection of plant and animal habitat. The sensitive area tract/sensitive area and buffer imposes upon all present and future owners and occupiers of the land subject to the tract/sensitive area and buffer the obligation, enforceable on behalf of the public by King County, to leave undisturbed all trees and other vegetation within the tract/sensitive area and buffer. The vegetation within the tract/sensitive area and buffer may not be cut, pruned, covered by fill, removed or damaged without approval in writing from the King County Department of Development and Environmental Services or its successor agency, unless otherwise provided by law.

The common boundary between the tract/sensitive area and buffer and the area of development activity must be marked or otherwise flagged to the satisfaction of King County prior to any clearing, grading, building construction or other development activity on a lot subject to the sensitive area tract/sensitive area and buffer. The required marking or flagging shall remain in place until all development proposal activities in the vicinity of the sensitive area are completed.

No building foundations are allowed beyond the required 15-foot building setback line, unless otherwise provided by law.

13. The applicant has proposed a suitable recreation space within Tract A consistent with the requirements of KCC 21A.14.180 and KCC 21A.14.190 (i.e., sport court[s], children's play equipment, picnic table[s], benches, etc.).
 - a. An overall conceptual recreation space plan shall be submitted for review and approval by DDES, with the submittal of the engineering plans. This plan shall include location, area calculations, dimensions, and general improvements. The approved engineering plans shall be consistent with the overall conceptual plan.
 - b. A detailed recreation space plan (i.e., landscape specs, equipment specs, etc.) consistent with the overall conceptual plan, as detailed in item a., shall be submitted for review and approval by DDES and King County Parks prior to or concurrent with the submittal of the final plat documents.
 - c. A performance bond for recreation space improvements shall be posted prior to recording of the plat.
14. A homeowners' association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the recreation, open space and/or sensitive area tract(s).
15. Street trees shall be provided as follows (per KCRS 5.03 and KCC 21A.16.050):
 - a. Trees shall be planted at a rate of one tree for every 40 feet of frontage along all roads. Spacing may be modified to accommodate sight distance requirements for driveways and intersections.
 - b. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 1993 King County Road Standards, unless King County Department of Transportation determines that trees should not be located in the street right-of-way.
 - c. If King County determines that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.
 - d. The trees shall be owned and maintained by the abutting lot owners *or* the homeowners association or other workable organization unless the County has adopted a maintenance program. Ownership and maintenance shall be noted on the face of the final recorded plat.
 - e. The species of trees shall be approved by DDES if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.
 - f. The applicant shall submit a street tree plan and bond quantity sheet for review and approval by DDES prior to engineering plan approval.

- g. The applicant shall contact Metro Service Planning at 684-1622 to determine if 148th Avenue SE is on a bus route. If 148th avenue is a bus route, the street tree plan shall also be reviewed by Metro.
 - h. The street trees must be installed and inspected, or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be submitted or the performance bond replaced with a maintenance bond, and held for one year. After one year, the maintenance bond may be released after DDES has completed a second inspection and determined that the trees have been kept healthy and thriving.
 - g. A landscape inspection fee shall also be submitted prior to plat recording. The inspection fee is subject to change based on the current County fees.
16. The following conditions have been established under SEPA authority as necessary requirements to mitigate the adverse environmental impacts of this development. The applicants shall demonstrate compliance with these items prior to final approval.
- a. Split rail or similar fence approved by DDES shall be constructed along the edge of the Sensitive Area Tract B and north property lines of lots 12 to 20 prior to final plat approval. Fencing details, construction and location shall be shown on the engineering plans for DDES review and approval. This mitigation is intended to reduce disturbance within the protective buffer and associated wetland.
 - b. The proposed plat shall comply with the recommendation of the wildlife study prepared by Raedeke Associates, Inc. dated November 30, 1999. The study recommends additional conifer trees be planted along the outer perimeter of the riparian buffer along the north boundary of the site. A tree-planting plan shall be prepared by the applicant and approved by DDES at the time of the plat engineering review. If some existing trees are determined to be hazardous, a few must be retained as heavily pruned snag.

ORDERED this 10th day of August, 2001.

Stafford L. Smith
King County Hearing Examiner

TRANSMITTED this 10th day of August, 2001, to the following parties and interested persons:

John E. Andrew
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Aileen McManus
KCDOT
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Carol Rogers
LUSD/CPLN
MS OAK-DE-0100

Steve Townsend
DDES/LUIS
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Larry West
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Wetland Reviewer
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Bruce Whittaker
LUSD/ERS
Prel. Review Engineer
MS OAK-DE-0100

NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) ***on or before August 24, 2001***. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council ***on or before August 31, 2001***. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE AUGUST 9, 2001 PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT
AND ENVIRONMENTAL SERVICES FILE NO: L00P0015

Stafford L. Smith was the Hearing Examiner in this matter. Participating in the hearing and representing the Department was Fereshteh Dehkordi and Bruce Whittaker. Participating in the hearing and representing the Applicant was Eric LaBrie. Juli Grenich also participated in this hearing.

The following exhibits were offered and entered into the record:

- Exhibit No. 1 Department of Development and Environmental Services File No. L00P0015
- Exhibit No. 2 Department of Development and Environmental Service Preliminary report, dated August 9, 2001.
- Exhibit No. 3 Application dated July 17, 2000.
- Exhibit No. 4 Environmental Checklist dated June 27, 2000.
- Exhibit No. 5 Mitigated Declaration of Non-significance dated June 15, 2001.
- Exhibit No. 6 Affidavit of Posting indicating August 28, 2000 as date of posting and August 30, 2000 as the date the affidavit was received by the Department of Development and Environmental Services.
- Exhibit No. 7 Site Plan dated March 3, 2001.
- Exhibit No. 8 Land Use Maps.
- Exhibit No. 9 Assessors Map SE 34-23-05 and SW 35-23-05.
- Exhibit No. 10 Level One drainage report dated June 29, 2000.
- Exhibit No. 11 Wetland Evaluation report by Terra Associates dated July 11, 2000.
- Exhibit No. 12 Wetland Addendum report by Terra Associates dated May 3, 2001.

Exhibit No. 13 Wetland report by Terra Associates dated May 9, 2001.

Exhibit No. 14 Wildlife Study by Raedeke Associates, Inc. dated November 30, 1999

Exhibit No. 15 Certificate of Traffic Concurrency February 15, 2000.

Exhibit No. 16 Conceptual Drainage Plan

Exhibit No. 17 Conceptual Recreation Plan

SLS:slb

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